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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,124	11/07/2001	K. Umit Yuksel	1577-164	4646
23117	7590	04/08/2005	EXAMINER	
NIXON & VANDERHYE, PC 1100 N GLEBE ROAD 8TH FLOOR ARLINGTON, VA 22201-4714			WEBMAN, EDWARD J	
			ART UNIT	PAPER NUMBER
			1616	

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/986,124

Applicant(s)

YUKSEL ET AL.

Examiner

Edward J. Webman

Art Unit

1617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-47, 53 and 54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30-47, 53, 54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 30, 38 are rejected under 35 U.S.C. 102(e) as being anticipated by Nussinovitch. (US. 6,589,328).

Nussinovitch '328 teaches biodegradable foams (abstract) by combining a solution of alginate calcium carbonate and a solution of citric acid (example 1 column 5).

Gelatin is specified as equivalent to alginate (column 3 line 47). Medicinal sponges are disclosed (column 1 line 14). Generation of carbon dioxide is specified (example 1 column 5).

As to the claimed solid foam, Nussinovitch teaches a sponge (title).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 30-47, 53, 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nussinovitch '328 in view of Wang and Fattman et al.

Nussinovitch '328 is described above.

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Wang teaches biodegradable foams comprising protein (abstract). Albumin and gelatin are disclosed as equivalent (column 3 line 50). Bicarbonate and citric acid are disclosed for generating carbon dioxide (column 5 lines 39-40).

Crosslinking with glutaraldehyde to provide rigidity is disclosed (column 6, line 61, column 7 line 150, reinforcement with natural fibers is specified (column 6, lines 29-30).

Fattman teach a hydrocolloid foam (title). Ammonium bicarbonate is disclosed as equivalent to calcium carbonate as a blowing agent (column 3, lines 36-48).

It would have been obvious to one of ordinary skill to add a glutaraldehyde as a crosslinker to the citric acid solution of Nussinovitch '328 to achieve the beneficial effect of achieving rigidity to the foam and to further add a natural fiber to provide reinforcement the the gelatin solution of Nussinovitch '328 to achieve the beneficial effect of reinforcement in view of Wang. As to the claimed ammonium bicarbonate, Fattman et al teach it as equivalent to the calcium carbonate of Nussinovitch '328 as a blowing agent. As to the claimed sterilization, such would be an obvious expedient for the medical sponges of Nussinovitch '328. As to the claimed kit, the two solutions of Nussinovitch '328 constitute such.

As to the now claimed human or bovine albumⁱ_{on}, such would be an obvious expedient to obviate an immune response when the obvious composition is used as a diaper or hygienic pad (column 1, line 11 in Nussinovitch '328).


Applicants claim two solutions, then argue intended uses of those solutions. However, the references teach the claimed solutions. Intended uses are not considered patentable limitations in composition claims during prosecution before the USPTO.

No claims allowed.

Any inquiry concerning this communication should be directed to Edward J. Webman at telephone number 571-272-0633.

Webman/tgd

March 15, 2005



EDWARD J. WEBMAN
PRIMARY EXAMINER
GROUP 1610